

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEVEN FERDMAN,

Plaintiff,

- against -

WISDOM DIGITAL MEDIA, LLC,

Defendant.

Docket No. 17-cv-03012

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Steven Ferdman (“Ferdman” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Wisdom Digital Media, LLC (“Wisdom Digital” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of two (2) copyrighted photographs of singer John Legend, owned and registered by Ferdman, a New York City-based photojournalist. Accordingly, Ferdman seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Ferdman is a professional photojournalist in the business of licensing his photographs to online, print, and television media outlets for a fee, having a usual place of business at 201 West 72nd Street, Apt. 18E, New York, New York 10023. Ferdman's photographs have appeared in various publications around the United States.

6. Upon information and belief, Wisdom Digital is a limited liability company duly organized and existing under the laws of the State of Delaware, with a place of business at 1001 Avenue of the Americas, 11th Fl., New York, New York 10018. At all times material hereto, Wisdom Digital has owned and operated a website at the following URL: [www.broadwayworld.com](http://www.broadwayworld.com) (the "Website").

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Photographs**

7. On November 14, 2016, Ferdman photographed singer John Legend (the "Photograph(s)"). A true and correct copy of the Photographs are attached hereto as Exhibit A.

8. Ferdman is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with the U.S. Copyright Office and were given Copyright Registration Number VA 2-025-112.

#### **B. Defendant's Infringing Activities**

10. On November 15, 2016, Wisdom Digital published an article on its Website that featured the Photograph entitled *John Legend & Belvedere Vodka Partner for NYC Darkness & Light Album Release Party*. See <http://www.broadwayworld.com/bwwmusic/article/John->

Legend-Belvedere-Vodka-Partner-for-NYC-Darkness-Light-Album-Release-Party-20161115#.

Upon information and belief, Wisdom Digital updated the article on February 14, 2017 substituting another of Plaintiff's Photographs. True and correct copies of Plaintiff's Photographs in the original and updated article are attached hereto as Exhibit B.

11. Wisdom Digital did not license the Photographs from Plaintiff for its article, nor did Wisdom Digital have Plaintiff's permission or consent to publish the Photographs on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST WISDOM DIGITAL)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Wisdom Digital Infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. Wisdom Digital is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright, in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the aforementioned acts of infringement by Wisdom Digital have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits resulting from the infringement pursuant to 17 U.S.C. § 504(b).

17. Alternatively, Plaintiff is entitled to recover statutory damages of up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to recover his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

19. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated or measured in money damages. Plaintiff has no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Wisdom Digital be adjudged to have infringed upon Plaintiff's copyright in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorney's fees, pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: April 25, 2017  
Valley Stream, New York

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